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U.S. DISTRICT COURT EASTERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Cassandra Woods, and Tina Hinton, Plaintiffs, -v- Addiction Research and Treatment Corporation, Defendant.	**Civ. Action #:** **Complaint** **Date Filed:** **Jury Trial Demanded**

BRODIE, J.

Plaintiffs, by Abdul K. Hassan, Esq., their attorney, complaining of the defendant Addiction Research and Treatment Corporation ("ARTC"), respectfully allege as follows:

GOLD, M.J.

NATURE OF THE ACTION

1. Plaintiffs allege that they have been employed by defendant and pursuant to the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 216 (b), that they are: (i) entitled to unpaid overtime wages from defendant for working more than forty hours in a week and not being paid an overtime rate of at least 1.5 times their regular rate for such hours over forty in a week; and (iii) entitled to maximum liquidated damages and attorneys' fees pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq. including 29 U.S.C. §§ 216(b).

2. Plaintiffs allege that they have been employed by defendant and pursuant to New York Labor Law ("NYLL") they are: (i) entitled to unpaid overtime wages from defendant for working more than forty hours in a week and not being paid an overtime rate of at least 1.5 times the regular rate for each and all such hours over forty in a week, and (ii) entitled to costs and attorney's fees, pursuant to the New York Minimum Wage Act ("NYMWA"), N.Y. Lab. Law §§ 650 et seq., ("NYLL") including NYLL § 663, and the regulations thereunder – 12 NYCRR § 142-2.2.

3. Plaintiffs are also entitled to recover their unpaid wages, under breach of contract and Article 6 of the New York Labor Law including Section 191, 193 and are entitled to liquidated damages and attorneys' fees pursuant to Section 198 of the New York Labor Law.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1337 and supplemental jurisdiction over plaintiffs' state law claim pursuant to 28 U.S.C. § 1367. In addition, the Court has jurisdiction over plaintiffs' claim under the Fair Labor Standards Act pursuant to 29 U.S.C. § 216 (b).

5. Venue is proper in the Eastern District of New York pursuant to 28 U.S.C. § 1391(b).

6. This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 2202.

THE PARTIES

7. Plaintiff Cassandra Woods ("Woods") is an adult, over eighteen years old, who currently resides in Brooklyn, New York.

8. Plaintiff Tina Hinton ("Hinton") is an adult, over eighteen years old, who currently resides in Bronx, New York.

9. Upon information and belief and at all times relevant herein, defendant Addiction Research and Treatment Corporation ("ARTC") was a domestic not-for-profit corporation organized and existing under the laws of the State of New York.

10. Upon information and belief and at all times relevant herein, defendant had it principal place of business at 22 Chapel Street, Brooklyn, NY 11201.

STATEMENT OF FACTS

11. Upon information and belief, and at all relevant times herein, defendant was a corporation that provided substance abuse counseling to the public.

12. Upon information and belief and at all relevant times herein, defendant employed more than

one hundred employees and operated several locations.

Plaintiff Cassandra Woods

13. Upon information and belief and at all times relevant herein, defendant employed Cassandra Woods ("Woods") to perform counseling services.

14. Upon information and belief, plaintiff Woods was employed by defendant from on or about July 16, 2007 to on or about May 18, 2012.

15. At all times relevant herein, plaintiff Woods was an hourly employee of defendant.

16. Plaintiff's regular rate was about $24 an hour.

17. At all times relevant herein, plaintiff Woods worked an average of about 43-46 hours a week for defendant.

Plaintiff Tina Hinton

18. Upon information and belief and at all times relevant herein, defendant employed Tina Hinton ("Hinton") to perform counseling services.

19. Upon information and belief, plaintiff Hinton was employed by defendant from on or about November 26, 2007 to on or about April 19, 2013.

20. At all times relevant herein, plaintiff Hinton was an hourly employee of defendant.

21. Plaintiff's regular rate was about $24 an hour.

22. At all times relevant herein, plaintiff Hinton worked about 43-46 hours a week for defendant.

23. At all times relevant herein, under their employment agreement/contract with defendant, defendant was required to pay plaintiffs their hourly rate for each hour of work – subject to the overtime laws etc. However, in general, defendant only paid plaintiffs for up to 35 hours a

week even when they worked more than 35 hours a week and more than 40 hours a week as they did.

24. At all times relevant herein, plaintiffs were supposed to handle a caseload of about 55 cases each but they had to handle a much heavier caseload of up to 80 cases each.

25. At all times relevant herein, in order to handle this much heavier caseload, plaintiffs worked about 43-46 hours a week by starting early and leaving late during weekdays and working on weekends.

26. At all times relevant herein, plaintiffs were expected by defendant to handle their cases and get the work done but defendant did not pay plaintiffs for all the time it took to get the work done.

27. At all times relevant herein, defendant gave plaintiffs compensatory time in lieu of some of the overtime worked but the compensatory time was given at plaintiffs' straight regular ate and time and not at 1.5 times the overtime hours. In addition, because of the demands of the job, plaintiffs could not use the compensatory time and they were never paid for the unused compensatory time.

28. Upon information and belief, and at all times relevant herein, defendant had revenues and/or transacted business in an amount exceeding $500,000 annually. Plaintiffs reference and incorporate herein, accurate copies of records of defendant's business volume and revenues as well as business operations and commerce that defendant was required to keep and maintain under the FLSA.

29. Upon information and belief and at all times relevant herein, defendant conducted business with medical laboratories and testing companies within and outside the state of New York such as Quest Diagnostics.

30. Upon information and belief, and at all times relevant herein, defendant conducted business

with insurance companies within and outside the state of New York.

31. Upon information and belief and at all times relevant herein, defendant purchased medical and other supplies from vendors within and outside the state of New York.

32. Upon information and belief and at all times relevant herein, defendant conducted business with the state and federal Medicaid insurance programs.

33. At all times applicable herein, defendant conducted business with vendors and other businesses outside the State of New York.

34. Defendant as a regular part of its business, makes payment of taxes and other monies to agencies and entities outside the State of New York.

35. Defendant as a regular part of its business, engaged in credit card transactions involving banks and other institutions outside the state of New York.

36. At all times applicable herein and upon information and belief, defendant transacted business with insurance companies, banks and similar lending institutions outside the State of New York.

37. At all times applicable herein and upon information and belief, defendant utilized the instrumentalities of interstate commerce such as the United States mail, electronic mail, the internet and telephone systems.

38. At all relevant times herein and for the time plaintiffs were employed by defendant, plaintiffs worked more than forty (40) hours in a week.

39. At all times relevant herein and for the time plaintiffs were employed by defendant, defendant failed and willfully failed to pay plaintiffs an overtime rate of one and one half times their regular rate of pay for all hours worked in excess of forty hours in a week for each

week in which such overtime was worked.

40. Upon information and belief, and at all relevant times herein, defendant failed to display federal and state overtime wage posters.

41. Upon information and belief, and at all relevant times herein, defendant failed to notify plaintiffs of their federal and state minimum wage and overtime rights and failed to inform plaintiffs that they could seek enforcement of such rights through the government enforcement agencies.

42. "Plaintiffs as used in this complaint refers to the named Plaintiffs.

43. The "present" or the "present time" as used in this complaint refers to the date this complaint was signed.

AS AND FOR A FIRST CAUSE OF ACTION

FAIR LABOR STANDARDS ACT - 29 U.S.C 201 et Seq.

44. Plaintiffs allege and incorporate by reference the allegations in paragraphs 1 through 43 above as if set forth fully and at length herein.

45. At all times relevant to this action, plaintiffs were employed by defendant, within the meaning of the FLSA.

46. At all times relevant to this action, plaintiffs were engaged in commerce and/or in the production of goods for commerce and/or defendant constituted an enterprise(s) engaged in commerce within the meaning of 29 U.S.C. §§ 206(a) and/or 207(a).

47. At all times relevant herein, defendant transacted commerce and business in excess of $500,000.00 annually or had revenues in excess of $500,000.00 annually.

48. **At all times relevant herein, defendant failed and willfully failed to pay plaintiffs**

overtime compensation at rates of at least 1.5 times their regular rate of pay for each hour worked in excess of forty hours in a work week, in violation of 29 U.S.C. § 207.

Relief Demanded

49. Due to defendant's FLSA violations, plaintiffs are entitled to recover from defendant, their unpaid overtime wage, maximum liquidated damages, attorney's fees, and costs of the action, pursuant to 29 U.S.C. § 216(b).

AS AND FOR A SECOND CAUSE OF ACTION

NYLL 650 et Seq. and 12 NYCRR 142-2.2 etc. (Unpaid Overtime)

50. Plaintiffs allege, and incorporate by reference the allegations in paragraphs 1 through 48 above as if set forth fully and at length herein.

51. At all times relevant to this action, plaintiffs were employed by defendant within the meaning of the New York Labor Law, §§ 2 and 651 and the regulations thereunder including 12 NYCRR § 142.

52. At all times relevant to this action, plaintiffs were employed by defendant within the meaning of the New York Labor Law, §§ 2 and 651 and the regulations thereunder.

53. At all times relevant herein, defendant failed and willfully failed to pay plaintiffs overtime compensation at rates of at least 1.5 times their regular rate of pay for each hour worked in excess of forty hours in a work week, in violation of the New York Minimum Wage Act and its implementing regulations. N.Y. Lab. Law §§ 650 et seq.; 12 NYCRR § 142-2.2.

Relief Demanded

54. Due to defendant New York Labor Law violations, plaintiffs are entitled to recover from defendant, their unpaid overtime wages, prejudgment interest, maximum liquidated damages, reasonable attorneys' fees, and costs of the action, pursuant to N.Y. Labor L. § 663(1).

AS AND FOR A THIRD CAUSE OF ACTION – Breach of Contract

55. Plaintiffs repeat and incorporate paragraphs 1 through 53 above as if set forth fully and at length herein.

56. Defendant breached the employment agreement/contract between it and plaintiffs as laid out above, by failing to pay plaintiffs all of the wages plaintiffs was due – by failing to pay plaintiff for the hours worked over 35 a week and by not paying plaintiffs for unused compensatory time.

57. Plaintiffs fully performed their obligations under the employment agreement/contract, including any and all condition precedents.

58. In light of defendant's breach of the employment agreement, plaintiffs are entitled to and seek to recover in this action, the amount of the unpaid wages, plus interest thereon.

AS AND FOR A FOURTH CAUSE OF ACTION - NYLL § 190, 191, 193 and 198

59. Plaintiffs allege, and incorporate each and every allegation contained in paragraphs 1 through 58 above with the same force and effect as if fully set forth at length herein.

60. At all times relevant to this action, plaintiffs were employed by defendant, within the meaning of the New York Labor law, §§ 190 et seq., including §§ 191, 193 and 198 and the applicable regulations thereunder.

61. **At all relevant times herein, defendant violated and willfully violated plaintiffs' rights under NY Labor Law § 190 et seq. including NY Labor Law §§ 191, 193 and 198 by failing to pay plaintiffs their wages, including their overtime wages, (FLSA and NYMWA), as required under NY Labor Law § 190 et seq., and by in effect withholding/deducting the wages due from plaintiffs' wages owed.**

Relief Demanded

62. Due to defendant's New York Labor Law Article 6 violations including violation of sections

191, 193 and 198, plaintiffs are entitled to recover from defendant, their entire unpaid/withheld/deducted wages, including their unpaid overtime wages, plus maximum liquidated damages, prejudgment interest, reasonable attorney's fees, and costs of the action, pursuant to N.Y. Labor Law § 190 et seq. including § 198.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court grant the following relief:

63. Declare that plaintiffs were employed by defendant and declare defendant's policy (including its overtime and wage payment policy and practice) to be in violation of the rights of plaintiffs, under the FLSA and New York Labor Law – 12 NYCRR § 142, and Article 6 of the NYLL – NYLL § 190 et Seq.

64. As to the **First Cause of Action**, award plaintiffs their unpaid overtime wages due under the FLSA, together with maximum liquidated damages, costs and attorney's fees pursuant to 29 USC § 216(b);

65. As to the **Second Cause of Action**, award plaintiffs their unpaid overtime wages due under the New York Minimum Wage Act and the Regulations thereunder including 12 NYCRR § 142-2.2, together with maximum liquidated damages, prejudgment interest, costs and attorney's fees pursuant to NYLL § 663;

66. As to the **Third Cause of Action**, award plaintiffs theirs unpaid wages plus interst thereon;

67. As to the **Fourth Cause of Action**, award plaintiffs any and all unpaid/withheld/deducted wages, including, overtime wages, plus maximum liquidated damages, and prejudgment interest, plus costs, disbursements and attorney's fees pursuant to NYLL § 198.;

68. Award plaintiffs, any relief requested or stated in the preceding paragraphs but which has not been requested in the WHEREFORE clause or "PRAYER FOR RELIEF", in addition to the relief requested in the wherefore clause/prayer for relief;

69. Award plaintiffs such other, further and different relief as the Court deems just and proper.

Dated: Queens Village, New York
August 22, 2013

Respectfully submitted,

Abdul K. Hassan, Esq. (AH6510)
215-28 Hillside Avenue, Queens Village, NY 11427
Tel: 718-740-1000
Fax: 718-355-9668
Email: abdul@abdulhassan.com
Counsel for Plaintiffs